

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

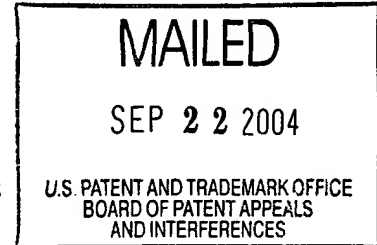
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD A. ROSS

Appeal No. 2003-1797
Application No. 09/602,713

ON BRIEF



Before KRASS, FLEMING, and GROSS, ***Administrative Patent Judges.***
GROSS, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 22 and 23. Claims 1 through 21 have been canceled. Claims 24 through 31 have been withdrawn from consideration.

Appellant's invention relates to a method of resolving condensed computer code. Claim 22 is illustrative of the claimed invention, and it reads as follows:

22. A method of resolving condensed computer code having a plurality of types of code structures, each of the types of code structures including a plurality of index references, the method comprising the steps of:

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reading a list of identifiers for each type of code structure, each list including an index reference corresponding to each of the identifiers in the list; and

replacing each of the index references in the computer code with the respective identifier corresponding to each respective index reference.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Hamby et al. (Hamby)	5,848,274	Dec. 08, 1998
		(filed May 10, 1996)

Claims 22 and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hamby.

Reference is made to the Examiner's Answer (Paper No. 14, mailed March 24, 2003) for the examiner's complete reasoning in support of the rejection, and to appellant's Brief (Paper No. 13, filed January 27, 2003) for appellant's arguments thereagainst.

OPINION

We have carefully considered the claims, the applied prior art reference, and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will reverse the anticipation rejection of claims 22 and 23.

The examiner (Answer, pages 3-4) attempts to read claim 22 on the disclosure of Hamby. Our best understanding of the

examiner's one-to-one correspondence of the claimed elements with those of Hamby is as follows:

for "each of the types of code structures including a plurality of index references" the examiner points to code objects and intermediate symbol or IL symbols stored in a resident persistent table,

for the step of "reading a list of identifiers for each type of code structure" the examiner points to the Incremental Imager forming the program image from code objects and their respective IL symbols, which suggests that the examiner equates the claimed identifiers with code objects and IL symbols, and

for the step of "replacing each of the index references in the computer code with the respective identifier corresponding to each respective index reference" the examiner points to an incremental builder resident in the system translating the source code files into code objects and their corresponding intermediate language (IL) symbols, which suggests that the examiner equates index references with source code files and identifiers with code objects and IL symbols.

Thus, the examiner uses Hamby's code objects and IL symbols as index references and as identifiers and also uses source code files as index references. The examiner further muddies the waters on page 10 of the Answer wherein the examiner states that Hamby teaches the claimed code structures are actually Hamby's code objects, the claimed identifiers for each type of code structure are "in conjunction with the IL symbols and code objects," and replacing each of the index references in the computer codes with the respective identifier "because Hamby's 'Incremental Builder' does not update all code objects but

selective ones." Then the examiner states (Answer, page 10) that Hamby does not explicitly disclose the word "index" but "it inherently teaches the indexing." It is unclear how Hamby can teach replacing an index reference with an identifier if an index is not even disclosed. All in all, the examiner cannot seem to pin down exactly which claimed elements and steps correspond to which elements and steps of Hamby.

Appellant (Brief, page 6) argues that Hamby fails to disclose the claimed step of replacing an index reference with any sort of identifier. Since we cannot decipher how the examiner wants us to read the index reference, the identifier, or the step of replacing the index reference with an identifier on Hamby's disclosure, we must agree with appellant. Accordingly, we cannot sustain the anticipation of claims 22 and 23.

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CONCLUSION

The decision of the examiner rejecting claims 22 and 23 under 35 U.S.C. § 102(e) is reversed.

REVERSED


ERROL A. KRASS)
Administrative Patent Judge)


MICHAEL R. FLEMING
Administrative Patent Judge

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Anita Pellman Gross
ANITA PELLMAN GROSS
Administrative Patent Judge

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